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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/022,526 | 12/20/2001 | Fredrik Henn | 0226-0113P | 2169 |

2292 7590 02/27/2006

BIRCH STEWART KOLASCH & BIRCH
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| EXAMINER |
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AZAD, ABUL K

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2654

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/022,526 | Applicant(s) HENN ET AL. | |
| | Examiner ABUL K. AZAD | Art Unit 2654 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-19 is/are allowed.
- 6) ☒ Claim(s) 20-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/29/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on December 5, 2005.
2. Claims 6-22 are pending in this action.
3. The applicant's arguments with respect to claims 20-22 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Minde et al. (US 5,991,717).

As per claim 20, Minde teaches, "method of encoding an audio signal to obtain an encoded base band audio signal", the method comprising the following steps:

"detecting, whether a to be processed passage of the audio signal has a pulse-train-like character or a non-pulse-train-like character, wherein a passage has a pulse-train-like character, when the passage includes a series of pulses having associated therewith a pulse period, and wherein a passage has a non-pulse-train-like character,

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when the passage does not include a series of pulses having associated therewith the pulse period" (col. 3, lines 6-54); and

"associating a control signal to the encoded base band audio signal, the control signal indicating, whether a passage of the encoded base band audio signal has a pulse-train-like character or not" (col. 3, lines 6-12).

As per claim 22, it is interpreted and thus rejected for the same reasons set forth in the rejection of claim 20.

As per claim 21, Minde teaches, "the step of detecting detects whether a passage has a pulse-train-like character or a non-pulse-train-like character by performing a transient detection in a time domain or a peak-picking operation in the frequency domain" (col. 1, lines 49-64).

Allowable Subject Matter

6. Claims 6-19 are allowed the prior art of record.

Response to Arguments

7. The applicant argues, "Although Minde discloses an apparatus and method for encoding a base band audio signal, nowhere in the cited passage (i.e., column 3, lines 6-54), or elsewhere in Minde, is there any disclosure of detecting whether a portion of the audio signal to be processed has a pulse-train-like character or a non-pulse-train-like character. Furthermore, nowhere in Minde is there any disclosure of associating a control signal to the encoded base band audio signal that indicates whether or not a passage of the encoded base band audio signal has a pulse-train-like character".

The examiner disagrees with the applicant's above assertion because Minde teaches, detecting whether a portion of the audio signal to be processed has a pulse-train-like character or a non-pulse-train-like character at col. 3, lines 38-54 and at Fig. 1, element 12 detecting processed audio signal is pulse-train like character or non-pulse-train like character, based on that determination signal is send to appropriate codebook.

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

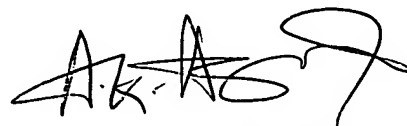
Or faxed to: **(571) 273-8300**.

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 21, 2006

A handwritten signature in black ink, appearing to read 'A.K. Azad', with a stylized flourish at the end.

Abul K. Azad
Primary Examiner
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